

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.2705 OF 2004

The Standard Batteries Limited ..Petitioner.
Vs.
The Standard Batteries Employees Union & Ors. ..Respondents.

....

Mr. S.K. Talsania, Senior Advocate with Mr. B.R. Palav i/b
Udwadia & Udeshi for the Petitioner.

CORAM: DR. D.Y. CHANDRACHUD, J.

6th November, 2006.

P.C. :

1. These proceedings arise out of an order dated 22nd July, 2004 passed by the Industrial Court. The Industrial Court is seized of two revision applications filed against a judgment dated 31st December, 1997 passed by the Labour Court in a complaint of unfair labour practices under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (complaint (ULP) 121 of 1993). The management moved an application before the Industrial Court to the effect that during the pendency of the dispute, a settlement was arrived at with the union

on 23rd October, 2000. Consequently, the management prayed that the revisions be disposed of in terms of the settlement. Clause 3 of the settlement provides as follows :

“3. The amount payable under this agreement will be paid in two installments and on fulfilling the condition of each installment as given below :

(a) The first installment will cover 2/3rd of the total amount payable to eligible workmen under this Settlement (subject to statutory deductions). These amounts will be paid within 10 days of the date of signing of this Settlement provided the Memorandum of Settlement (as per Annexure 3) signed by atleast 75% of eligible workmen in List 1 (Annexure 1) and List 2 (Annexure 2) attached to this Settlement and the declaration in Form 10E under section 89 of Income Tax Act duly filled in by the workmen concerned is received within the specified period of 10 days.

(b) Balance 1/3rd of the total amount payable will be paid within 45 days of disbursal of the first installment provided the parties shall record this Settlement in matters/ cases instituted by them in various Courts and Tribunals prior to disbursement of this balance 1/3rd amount.”

2. The union filed a reply and opposed the prayer of the management on the ground that full payment as contemplated in paragraph 3 of the settlement was yet to be made.

3. Before the Industrial Court, when the application filed by the management came up for hearing, it was submitted on behalf of the management that the settlement was to be recorded in the proceedings which were pending before various Tribunals which had not been done and the company was prepared to deposit the amount as agreed in the settlement. The Industrial Court by its impugned order dated 22nd July, 2004 directed the management to deposit "the remaining amount" as agreed in paragraphs 3(a) and 3 (b) of the settlement dated 23rd October, 2000 on or before the next date of hearing and observed that further orders shall be passed on deposit of the amount. The grievance of the management is that while it is on the one hand willing to abide by the terms of the settlement, clause 3(b) contemplates that the balance representing 1/3rd of the total amount would be paid within 45 days of the disbursal of the first installment, provided parties record the settlement in cases pending before various Courts and Tribunals prior to the disbursal of the balance amount. In assailing the order of the Industrial Court, it has been urged before the Court in these proceedings that on the application filed by the

management to record the terms of the settlement and dispose of the proceedings, it was not appropriate to direct the company to first deposit the amount and that an order of deposit should have been passed in terms of a comprehensive direction provided parties were willing to accept the final disposal of the proceedings in terms of the settlement.

4. At the present stage, it will not be appropriate for this Court to make any observation on whether the revision application should be disposed of in terms of the settlement dated 23^d October, 2000 since that is a matter for the Industrial Court to consider. The application filed by the management is yet to be disposed of. Directing the management to deposit the amount first before the application is considered is not warranted. Undoubtedly the Industrial Court will have to consider the objections, if any, of the union which had opposed the application filed by the management. The appropriate order therefore would be to quash and set aside the directions issued in the impugned order dated 22nd July, 2004 under which the management had been directed to

effect deposit as a condition precedent for the consideration of its application. Such a direction is neither fair and proper nor warranted in the interests of justice. Counsel appearing for the management submitted that the statement which was made on its behalf before the Industrial Court was that the management was ready and willing to deposit the entire amount of the balance that was due and payable provided the union agreed to the disposal of the proceedings in terms of the settlement and that the said statement could not be dealt with piecemeal by calling upon the management to deposit the amount in the first place. There is merit in the submission for the reasons which have already been indicated in the earlier part of this order. Hence, this Petition is disposed of by quashing and setting aside the impugned order dated 22nd July, 2004. The Industrial Court shall reconsider the applications (Exhibits C-8 and C-1) and pass orders thereon after hearing the parties thereto. The Petition is disposed of accordingly. There shall be no order as to costs.